

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

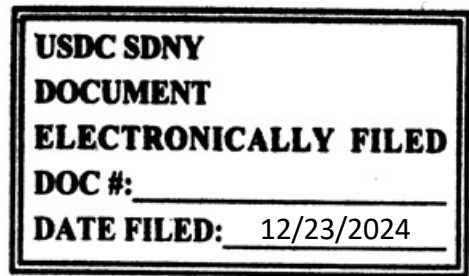
Alexander Gomez,

Plaintiff,

-against-

Cirlio Lozada and Amigos Restaurant, Inc.,

Defendants.



1:24-cv-03020 (JLR) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

Following a telephone conference held today with Plaintiff's counsel, and the for the reasons set forth on the record, it is hereby ORDERED, as follows:

1. No later than Monday, December 30, 2024, Plaintiff either shall:
 - a. File a Notice of Voluntary Dismissal, pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, dismissing without prejudice Plaintiff's claims against the non-appearing individual defendant, Cirlio Lozada ("Lozada"), or
 - b. File a motion, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, seeking additional time to effect service of process on Lozada.

2. No later than Monday, December 30, 2024, Plaintiff shall file a letter to the ECF docket formally withdrawing without prejudice the pending Motion for Default Judgment (ECF No. 22.) If and only if Plaintiff files a Notice of Voluntary Dismissal, in accordance with subparagraph 1.a. above, Plaintiff shall include in such letter a deadline by which Plaintiff proposes to file a renewed motion for a default judgment, which renewed motion shall include the required documentation in support of Plaintiff's claims for attorneys' fees and costs. If

Plaintiff files a Rule 4(m) motion, in accordance with subparagraph 1.b. above, Plaintiff shall refrain from making a renewed motion for a default judgment until the claims against Lozada are resolved. See 10A Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 2690 (4th ed. 2018) (“[W]hen one of several defendants who is alleged to be jointly liable defaults, judgment should not be entered against that defendant until the matter has been adjudicated with regard to all defendants, or all defendants have defaulted.”).

SO ORDERED.

Dated: New York, New York
December 23, 2024

A handwritten signature in cursive script, reading "Stewart D. Aaron", is positioned above a horizontal line.

STEWART D. AARON
United States Magistrate Judge